

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

ARIANE ROSE VILLARIN, on behalf of herself
and all others similarly situated,

Plaintiff,

Case No. 1:23-cv-097

v.

Judge Michael R. Barrett

HEALTH CARE FACILITY MANAGEMENT, LLC
d/b/a CommuniCare Family of Companies,

Defendant.

ORDER

This matter is before the Court on Defendant's Motion to Dismiss Plaintiff's Amended Collective and Class Action Complaint (pursuant to Fed. R. Civ. P. 12(b)(6)). (Doc. 16). The Court undertakes this *sua sponte* review in the wake of its Order issued today (March 20, 2024) in the related case, *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 20).

In this civil action, Plaintiff Villarin pleads 12 causes of action. (See Doc. 15). Defendant CFC moves to dismiss all of them. In the related case, Plaintiff CFC pleads three causes of action against Defendant Malabanan, who, in turn, filed a Counterclaim¹ against CFC that pleads the same 12 causes of action as Plaintiff Villarin does here. In the related case, CFC moved to dismiss all 12 counterclaims (again pursuant to Fed. R. Civ. P. 12(b)(6)).² CFC's papers are identical to the memorandum filed in this civil action,

¹ *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 11).

² *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 13).

with the narrative clarification that Malabanan and Villarin were at different worksites. The substance of CFC's legal arguments, however, are the same. In the related case, the Magistrate Judge recommended that CFC's motion be denied, except as to Malabanan's unjust enrichment counterclaim.³ Over CFC's partial objection⁴, the undersigned accepted the Magistrate Judge's recommendation and denied CFC's Rule 12(b)(6) motion except with respect to Malabanan's unjust enrichment claim.⁵

In this civil action, Plaintiff Villarin's prior counsel⁶ filed a motion for leave to file a second amended complaint in response to Defendant CFC's pending Rule 12(b)(6) motion rather than a memorandum in opposition to it. New lead counsel has withdrawn this (first) motion for leave and has until March 22, 2023 to file a (second) motion for leave with a proposed (and presumably revised) second amended complaint attached. (Doc. 39 & 3/19/2024 Notation Order). CFC will then have an opportunity to argue against leave to amend.

In the meantime, however, the undersigned determines that ruling now on CFC's pending motion will promote judicial economy. Accordingly, in an exercise of the Court's inherent authority to manage its docket,⁷ and for the reasons set forth in the Order issued

³ *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 17).

⁴ *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 19).

⁵ *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 20).

⁶ The Court terminated Felix Q. Vinluan as (*pro hac vice*) attorney of record in an Order released on 2/1/2024. (See Doc. 36).

⁷ See generally *Dietz v. Bouldin*, 579 U.S. 40, 45 (2016) ("[T]his Court has long recognized that a district court possesses inherent powers that are 'governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.'" (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962)); *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (recognizing "the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.")).

(March 19, 2024) in the related case, *Health Care Facility Management LLC d/b/a CommuniCare Family of Companies v. Jedkreisky Malabanan*, No. 1:23-cv-00236 (Doc. 20), Defendant's Motion to Dismiss Plaintiff's Amended Collective and Class Action Complaint (pursuant to Fed. R. Civ. P. 12(b)(6)) (Doc. 16) is **GRANTED only with respect to Plaintiff's unjust enrichment claim**; it is otherwise **DENIED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett
Michael R. Barrett, Judge
United States District Court